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3739

Practitioner's Docket N . A31-5822

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: James J. Pagliuca et al.

Application No.: 09/940,402

Group No.: 3739

Filed: August 27, 2001

Examiner: John P. Leubecker

For: **APPARATUS FOR ADJUSTABLY SUPPORTING AN ENDOSCOPE**

**RESPONSE UNDER  
37 C.F.R. § 1.116  
EXPEDITED PROCEDURE  
EXAMINING GROUP**

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**AMENDMENT OR RESPONSE AFTER FINAL REJECTION--TRANSMITTAL**

1. Transmitted herewith is an amendment after final rejection (37 C.F.R. § 1.116) for this application.

**CERTIFICATE OF MAILING/TRANSMISSION 37 CFR 1.8(a) and 1.10\***

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*Express Mail Certification is optional.)*

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Date: May 21, 2004

Anita J. Galo

(type or print name of person certifying)

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"Since the filing of correspondence under § 1.10 without the Express Mail mailing label thereon is an oversight that can be avoided by the exercise of reasonable care, requests for waiver of this requirement will not be granted on petition." Notice of Oct. 24, 1996, 60 Fed. Reg. 56,439, at 56,442.

**NOTE:** *Response to Final Rejection—Avoiding Extension Fees* "In patent applications wherein a three month Shortened Statutory Period (SSP) is set for response to a Final Rejection, the response would best be filed within two months of the date of the Office Action. If filed within two months, any Advisory Action mailed after the SSP expires will reset the SSP to expire on the date of the Advisory Action for extension fee purposes, but never more than six months from the date of the Final Rejection." Notice of Nov. 30, 1990 (1122 O.G. 571 to 591). See M.P.E.P. § 714.13, 6th ed., rev. 3.

## STATUS

2. Applicant is

☒ a small entity. A statement:

☐ is attached.

☒ was already filed.

☐ other than a small entity.

## EXTENSION OF TERM

**NOTE:** *As to a Supplemental Amendment filed in response to a final office action, the Notice of December 10, 1985 (1061 O.G. 34-35) states:*

*"If a timely response has been filed after a Final Office Action, an extension of time is required to permit filing and/or entry of a Notice of Appeal or filing and/or entry of an additional amendment after expiration of the shortened statutory period unless the timely-filed response placed the application in condition for allowance. Of course, if a Notice of Appeal has been filed within the shortened statutory period, the period has ceased to run."*

3. (complete (a) or (b), as applicable)

(a) ☒ Applicant petitions for an extension of time under 37 C.F.R. § 1.136 (fees: 37 C.F.R. § 1.17(1)-(4) for the total number of months check below:

Extension (months)	Fee for other than small entity	Fee for small entity
<input checked="" type="checkbox"/> one month	\$ 110.00	\$ 55.00
<input type="checkbox"/> two months	\$ 420.00	\$210.00
<input type="checkbox"/> three months	\$ 950.00	\$475.00
<input type="checkbox"/> four months	1,480.00	\$740.00

Fee \$ 55.00

If an additional extension of time is required, please consider this a petition therefor.

(check and complete the next time, if applicable)

☐ An extension for \_\_\_\_\_ months has already been secured and the fee paid therefor of \$\_\_\_\_\_ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$55.00

OR

(b) ☐ Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition for extension of time.

## FEE FOR CLAIMS

4. The fee for claims (37 C.F.R. § 1.16(b)-d)) has been calculated as shown below:

(Col. 1)		(Col. 2)		(Col. 3)		SMALL ENTITY		OTHER THAN A SMALL ENTITY	
CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR		PRESENT EXTRA		ADDIT. FEE .		ADDIT. FEE	
TOTAL	*48	MINUS	** 48	=0	X\$ 9=	\$	0.00	X\$ 18=	\$
INDEP.	*20	MINUS	*** 7	=13	X\$ 43=	\$	559.00	X\$ 86=	\$
<input type="checkbox"/> FIRST PRESENTATION OF MULTIPLE DEP. CLAIM				= 0	X\$145=	\$	0.00	X\$290=	\$
TOTAL ADDIT. FEE						OR		TOTAL ADDIT. FEE	
						\$559.00		\$	

- \* If the entry in Col. 1 is less than entry in Col. 2, write "0" in Col. 3.  
 \*\* If the "Highest No. Previously Paid For" IN THIS SPACE is less than 20, enter "20".  
 \*\*\* If the "Highest No. Previously Paid For" IN THIS SPACE is less than 3, enter "3".  
 The "Highest No. Previously Paid For" (Total or Indep.) is the highest number found in the appropriate box  
 in Col. 1 of a prior amendment or the number of claims originally filed.

**WARNING** See 37 C.F.R. § 1.116.

(complete (c) or (d), as applicable)

- (c) ☐ No additional fee for claims is required.

OR

- (d) ☒ Total additional fee for claims required \$559.00

## FEE PAYMENT

5. ☒ Attached is a ☒ check ☐ money order in the amount of \$614.00  
☒ Authorization is hereby made to charge the amount of \$0.00  
☒ to Deposit Account No. 20-0090.  
☐ to Credit card as shown on the attached credit card information authorization form  
 PTO-2038.

**WARNING:** Credit card information should **not** be included on this form as it may become public.

- ☒ Charge any additional fees required by this paper or credit any overpayment in  
 the manner authorized above.

A duplicate of this paper is attached..

## FEE DEFICIENCY

**NOTE:** *If there is a fee deficiency and there is no authorization to charge an account, additional fees are necessary to cover the additional time consumed in making up the original deficiency. If the maximum, six-month period has expired before the deficiency is noted and corrected, the application is held abandoned. In those instances where authorization to charge is included, processing delays are encountered in returning the papers to the PTO Finance Branch in order to apply these charges prior to action on the cases. Authorization to charge the deposit account for any fee deficiency should be checked. See the Notice of April 7, 1986 (1065 O.G. 31-33).*

6. ☒ If any additional extension and/or fee is required, charge Account No. 20-0090.

## AND/OR

- ☒ If any additional fee for claims is required, charge Account No. 20-0090.

  
\_\_\_\_\_  
SIGNATURE OF ATTORNEY

James L. Tarolli  
\_\_\_\_\_  
(type or print name of attorney)

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*May 21 2004*

*James J. Pagliuca*

SIGNATURE

*5/21/2004*

DATE

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**AMENDMENT**

Sir:

In response to the Office Action dated January 21, 2004 please amend the above-identified application as follows:

**Amendment to the Claims** are reflected in the listing of claims which begin on page 2 of this paper.

**Remarks/Arguments** begin on page 24.

05/25/2004 EFLORES 00000028 09940402

01 FC:2251  
02 FC:2201

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